

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

DEC 03 2014

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION

JAMES W. McCORMACK, CLERK
By: *John Bonney* DEP CLERK

LASHEIKA JACKSON,

Plaintiff,

v.

EDWARD BURLESON AND
MARTEN TRANSPORT,

Defendants.

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3:14-cv-00283 DPM / JTK
NO: CV2014-377

This case assigned to District Judge MARSHALL
and to Magistrate Judge HEARNEY

NOTICE OF REMOVAL OF CIVIL ACTION

TO: Roy C. Lewellen
Lewellen and Associates
17 North Poplar
Marianna, AR 72360
Counsel for Plaintiff

Pursuant to 28 U.S.C. Sections 1441 and 1446, the Defendant, **MARTEN TRANSPORT**, by and through counsel of record, Glassman, Wyatt, Tuttle & Cox, P.C., files this Notice of Removal of the above civil action, and as basis for said removal would show as follows:

1. Removing party, Marten Transport., is a named Defendant in the above entitled action.

2. This matter was originally filed in the Circuit Court of Crittenden County, Arkansas, on the 28th day of October, 2014, under Docket No. CV2014-377. A copy of the original Complaint filed in the Circuit Court of Crittenden County, Arkansas, is attached to this Notice of Removal.

3. On or about November 17, 2014, the Defendant, Marten Transport, was served with the Summons and Complaint from the Circuit Court of Crittenden County, Arkansas.

4. Based on a review of the file by the undersigned counsel for removing Defendant, the Complaint and Summons are the only pleadings filed in the cause to date.

5. At the time of filing this Notice of Removal, counsel for removing Defendant hereby states that Defendant, Edward Burleson, has not been served with the Summons and Complaint. However, if and when said Defendant is served, the undersigned counsel will be representing said Defendant and will thereafter file the appropriate response.

6. Since the filing of the Complaint, no further proceedings have taken place in the Crittenden County, Arkansas Circuit Court action.

7. Based on the damages allegations in the Complaint, the amount in controversy, exclusive of interest and costs, exceeds the sum of \$75,000.00. In accordance with 28 U.S.C. Section 1446 (c)(2)(B), to establish that the amount in controversy exceeds \$75,000.00, Defendant would show that, while the medical expenses are unknown at this time, the Plaintiff has advised Defendant that she received treatment at two separate hospitals, and has undergone numerous diagnostic tests; further, Plaintiff has indicated to Defendant that she claims head as well as neck and low back injuries and weakness in her upper and lower extremities. Thus, Defendant submits that said medical treatment along with the damages allegations in the Complaint, establish by a preponderance of evidence that the amount in controversy exceeds \$75,000.00.

8. Plaintiff is presently, and was at the time the Complaint was filed, a resident citizen of Crittenden County, Arkansas.

9. The Defendant, Marten Transport, is presently, and was at the time the Complaint was filed, a foreign corporate resident/citizen organized and incorporated under the laws of the State of Delaware with its principal place of business being in Mondovi, Wisconsin.

10. The Defendant, Edward Burleson, is presently, and was at the time the Complaint was filed, a resident citizen of Pittsburg, Texas.

11. This action is a civil action for personal injuries as a result of a motor vehicle accident which occurred in Crittenden County, Arkansas, on November 20, 2011.

12. This Court has original jurisdiction of this action pursuant to 28 U.S.C. Section 1332(a)(1) and (c) as the suit is between citizens of different states, and as the amount in controversy allegedly exceeds the sum of \$75,000.00 exclusive of interests and costs.

13. This Notice of Removal is being filed with this Court within 30-days of receipt of the Complaint by the removing Defendant, Marten Transport.

14. Defendant has filed a copy of this Notice of Removal with the Circuit Court of Crittenden County, Arkansas, pursuant to 28 U.S.C. 1446 (d).

RESPECTFULLY SUBMITTED,
COUNSEL FOR DEFENDANT,
MARTEN TRANSPORT

BY: 

CARL WYATT, #12304

Glassman, Wyatt, Tuttle & Cox, P.C.

26 North Second Street

Memphis, Tennessee 38103

cwyatt@gewwlaw.com

P: 901-527-467)

F: 901-527-5320

GWTC File No. 14-372Z

CERTIFICATE OF SERVICE

A true copy of the foregoing pleading has been properly served via U.S. Mail, postage prepaid, this the 2nd day of December, 2014, upon the following:

Roy C. Lewellen
Lewellen and Associates
17 North Poplar
Marianna, AR 72360
Counsel for Plaintiff



CARL WYATT

IN THE CIRCUIT COURT OF CRITTENDEN COUNTY, ARKANSAS
CIVIL DIVISION

FILED
2014 OCT 28 PM 3:38

LASHEIKA JACKSON

PLAINTIFFS
TERRY HAWKINS
CIRCUIT COURT CLERK
CRITTENDEN COUNTY, AR

NO. 2014-377

EDWARD BURLESON
MARTEN TRANSPORT

DEFENDANTS

COMPLAINT

COMES the Plaintiff, by and through his attorney, Roy C. Lewellen
and for her Complaint would state:

1. That this Court has jurisdiction over the parties and subject matter
and venue is proper in this Court pursuant to Arkansas Law.
2. That the Plaintiff is a resident of West Memphis, Arkansas and the
Defendant, Edward Burleson is a resident of Mount Pleasant, Texas
and operator of the vehicle referred herein, and Defendant Marten
Transport is the owner of the vehicle and a business authorized to
transport, corporate office located in Mondovi, Wisconsin.
3. That on or around November 20, 2011, Plaintiff was traveling in the
right lane when Defendant was in left lane attempting to cross to
right lane. The Defendant hit the left side of Plaintiff's vehicle.



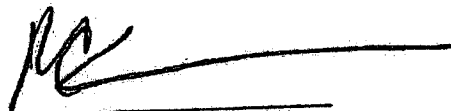
4. That the Defendant failed to yield or take the proper precautions which caused the Defendant strike Plaintiff's vehicle.
5. That as a result of said accident, Plaintiff was severely injured.
6. That the Defendant Marten Transport knew or should have known that Edward Burleson was an unsafe driver and was negligent by entrusting said Defendant with the operation of the vehicle.
7. That the Defendant was negligent, careless, and reckless at the time and place above mentioned in one of more particulars.
 - a. In failing to maintain a proper and well-kept environment.
 - b. In failing to keep vehicle under proper control;
 - c. In failing to use the degree of care and caution that a reasonable prudent person would have used under the circumstances.
8. That the Plaintiff was free of negligent on his part.
9. That the Plaintiff's vehicle was damaged substantially and the value of said vehicle diminished.
10. That the Plaintiff has suffered pain and suffering and medical expenses.
11. That the Plaintiff has suffered physical injuries, medical expenses, and loss wages.

12. That the Plaintiff is entitled to judgment against the Defendant for compensatory and actual damages. That the Plaintiff requests a trial by jury.

13. That the Plaintiff should be awarded statutory penalty as permitted by law.

WHEREFORE, premise considered, the Plaintiff prays that she be awarded judgment against the Defendants for her pain and suffering, medical expenses, future medical cost, and attorney's fees, and for all other relief to which she is entitled.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'RC', followed by a horizontal line.

Roy C. Lewellen 82093
LEWELLEN AND ASSOCIATES
17 North Poplar
Marianna AR 72360
870-295-2764

THE CIRCUIT COURT OF CRITTENDEN COUNTY, ARKANSAS
CIVIL DIVISION [Civil, Probate, etc.]

LASHEIKA JACKSON

Plaintiff

v.

EDWARD BURLESON MARTEN TRANSPORT LTD

Defendant

SUMMONS

THE STATE OF ARKANSAS TO DEFENDANT:

EDWARD BURLESON MARTEN TRANSPORT

[Defendant's name and address.]

129 MARTEN STREET MONDOVI, WISCONSIN 54755

A lawsuit has been filed against you. The relief demanded is stated in the attached complaint. Within 30 days after service of this summons on you (not counting the day you received it) — or 60 days if you are incarcerated in any jail, penitentiary, or other correctional facility in Arkansas — you must file with the clerk of this court a written answer to the complaint or a motion under Rule 12 of the Arkansas Rules of Civil Procedure.

The answer or motion must also be served on the plaintiff or plaintiff's attorney, whose name and address are: _____

If you fail to respond within the applicable time period, judgment by default may be entered against you for the relief demanded in the complaint.

CLERK OF COURT

Address of Clerk's Office

Terry Hankins, Clerk
DyCya R. Applegate
[Signature of Clerk or Deputy Clerk]

Date: October 28, 2014

[SEAL]

NOV 17 2014

No. CV2014-377

No. _____ This summons is for _____ (name of Defendant).

PROOF OF SERVICE

☐ I personally delivered the summons and complaint to the individual at _____ [date]; or _____ [place] on _____

☐ I left the summons and complaint in the proximity of the individual by _____ after he/she refused to receive it when I offered it to him/her; or _____

☐ I left the summons and complaint at the individual's dwelling house or usual place of abode at _____ [address] with _____ [name], a person at least 14 years of age who resides there, on _____ [date]; or _____

☐ I delivered the summons and complaint to _____ [name of individual], an agent authorized by appointment or by law to receive service of summons on behalf of _____ [name of defendant] on _____ [date]; or _____

☐ I am the plaintiff or an attorney of record for the plaintiff in this lawsuit, and I served the summons and complaint on the defendant by certified mail, return receipt requested, restricted delivery, as shown by the attached signed return receipt.

☐ I am the plaintiff or an attorney of record for the plaintiff in this lawsuit, and I mailed a copy of the summons and complaint by first-class mail to the defendant together with two copies of a notice and acknowledgment and received the attached notice and acknowledgment form within twenty days after the date of mailing.

☐ Other [specify]: _____

☐ I was unable to execute service because: _____

My fee is \$ _____.

To be completed if service is by a sheriff or deputy sheriff:

Date: _____ SHERIFF OF _____ COUNTY, ARKANSAS

By: _____
[Signature of server]

[Printed name, title, and badge number]

To be completed if service is by a person other than a sheriff or deputy sheriff:

Date: _____ By: _____
[Signature of server]

[Printed name]

Address: _____

Phone: _____

Subscribed and sworn to before me this date: _____

Notary Public

My commission expires: _____

Additional information regarding service or attempted service:

